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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,791	01/22/2007	Jan Eriksson	3682-60	7528
23117 7590 05/12/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
LEE, GILBERT Y				
ART UNIT		PAPER NUMBER		
3676				
MAIL DATE		DELIVERY MODE		
05/12/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/559,791

**Applicant(s)**

ERIKSSON, JAN

**Examiner**

GILBERT Y. LEE

**Art Unit**

3676

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 7 and 11-20 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities: "such" in line 2 should be removed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5, and 8-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bucalo (US Patent No. 4,783,109).

Regarding claim 1, the Bucalo reference discloses a mobile stretcher comprising a bed face (e.g. top face of 50) on a frame (48) provided with a head-end (e.g. right portion of 50 in Fig. 2) and a foot-end (e.g. left portion of 50 in Fig. 2), the foot-end being provided with a fixedly arranged rack (Fig. 4), which carries at least one medical instrument (e.g. 40,42) as well as that the rack is formed so that the medical instrument carried by the rack is located midwise above the foot-end (Fig. 1), characterized in that the rack is formed so that no part of the rack constitutes an obstacle for handling the legs and feet of a patient upon movement and medical actions (e.g. depending on the size of the patient), so that the patient may be lifted up on the stretcher generally

laterally in a stretched-out position without the rack or instrumentation blocking the patient (e.g. depending on the size of the patient). Note that the Bucalo reference is capable of receiving a spineboard.

Regarding claim 3, the Bucalo reference discloses the rack being provided with two rear support legs (64, 66) fixedly arranged on each side of the frame and substantially leaning against the bed face of the frame for carrying the instrument (Figs. 1-3).

Regarding claim 4, the Bucalo reference discloses each support leg being provided with a support part (e.g. 80 and 82 respectively) that is substantially parallel to the bed face of the frame and that extends forwards towards the head-end of the stretcher (Figs. 1-4).

Regarding claim 5, the Bucalo reference discloses a front end of at least one support part being provided with a front support leg (68), which is arranged to supportingly abut leaningly towards the bed face of the frame (Figs. 1-3).

Regarding claim 8, the Bucalo reference discloses the rack being provided with at least one transverse support member (90, 92) for supporting in parallel support parts and against which the instrument is arranged to be supported and also fixed (Figs. 1-3).

Regarding claim 9, the Bucalo reference discloses the rack being provided with at least one crash bow (e.g. 102,202) which surrounds the sides and the top side of the medical instrument (Figs. 2 and 8).

Regarding claim 10, the Bucalo reference discloses the crash bow being provided with a longitudinal protective bow (e.g. 104).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bucalo.

Regarding claim 2, the Bucalo reference discloses the invention substantially as claimed in claim 1, including varying the height of the instrument panel to allow for passage into an ambulance entrance (Col. 6, Lines 45-54).

However, the Bucalo reference fails to disclose the height of the bottom side of said medical instrument being between 30cm and 50cm.

Discovering an optimum range of a result effective variable involves only routine skill in the art. Since applicant has not shown some unexpected result the inclusion of this limitation is considered to be a matter of mechanical expedience. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the height of the bottom side of said medical instrument be between 30cm and 50cm in the Bucalo as a matter of mechanical expedience and in order to insure passage into an ambulance entrance (Col. 6, Lines 45-54).

***Allowable Subject Matter***

4. Claims 6, 7, and 11-20 are allowed.

***Response to Arguments***

5. Applicant's arguments filed 2/11/09 have been fully considered but they are not persuasive.

With regards to the applicant's argument of claims 1-5, and 8-10 the argument is not persuasive because the added limitations do not define the current invention over the prior art of record. The added limitations do not add any structure to the claims. As stated above, if a smaller person or child were to use the Bucalo reference, the legs will not be blocked by the rack.

With regards to the applicant's argument of claim 2, the argument is not persuasive. As to the issue relative to the lack of a specific teaching to modify the Bucalo device as proposed by the examiner, the examiner notes the test for obviousness is not the expressed suggestion of the claimed invention in any or all of the references, but what the references taken collectively would suggest to anyone skilled in the art. Clearly the Bucalo reference teaches to vary the height of the rack as long as the height does not restrict the entrance into an ambulance. Selecting specific heights would only involve routine skill in the art.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer H. Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer H Gay/  
Supervisory Patent Examiner, Art  
Unit 3676

/G. Y. L./  
Examiner, Art Unit 3676